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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,630	01/24/2006	Chatrine Stridfeldt	1511-1044	2994
466 7590 10/28/2009 YOUNG & THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314			EXAMINER KIDWELL, MICHELE M	
			ART UNIT 3761	PAPER NUMBER
			NOTIFICATION DATE 10/28/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/565,630

Applicant(s)

STRIDFELDT ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 - 12, 14 - 18 and 20 - 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bewick-Sonntag et al. (US 6,232,521).

With respect to claims 11 - 12, 14 - 18 and 20 - 23, Bewick-Sonntag et al. (hereinafter "Bewick") discloses a breathable backsheet comprising a liquid impermeable, water vapor permeable first and second layers with an absorbent body adjacent the first layer (col. 6, lines 1 - 12), an absorbent article adapted to function as claimed (figure 1) wherein the backsheet includes a condensation zone (space) between the first and second layers.

The difference between Bewick and claim 1 is the explicit teaching that the hydrophobic distance element is placed in the condensation zone creating a space between the first and second layers.

In col. 6, lines 8 - 9, Bewick discloses that the backsheet may include additional layers.

It would have been obvious to one ordinary skill in the art to utilize an additional backsheet layer in the configuration of Bewick because Bewick anticipates the use of such. This additional layer creates additional spacing.

The functionality of the article (i.e. first and second amounts of mass flow water vapor) appear to be a direct result of the structure and would therefore be met by Bewick since Bewick provides all structural elements in the same configuration as claimed. The raised portions are considered to be the attached areas while unattached areas are considered depressed in relation to attached, or raised, areas as shown in figure 2.

The difference between Bewick and claim 13 is the provision that the element comprises a number of particles.

It would have been obvious to one of ordinary skill in the art to provide a number of hydrophobic particles as opposed to the one particle taught by Bewick since it has been held that the mere duplication of essential working parts is within the level of ordinary skill in the art.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bewick-Sonntag et al. (US 6,232,521) in view of Noda et al. (US 2001/0044611)

The difference between Bewick and claim 19 is the provision that the element has a minimum distance between the two layers.

Noda et al. (hereinafter "Noda") teaches a hydrophobic element with a thickness greater than 0.1 mm.

It would have been obvious to one of ordinary skill in the art to provide Shimoe with a layer having a thickness greater than 0.1 mm, thereby resulting in a space between the layers of at least 0.1 mm because such a thickness results in a backsheet with a good texture or feel as taught by Noda in [0034].

Response to Arguments

Applicant's arguments filed May 18, 2009 have been fully considered but they are not persuasive.

The applicant argues that the backsheet of Bewick is not liquid impermeable. The examiner disagrees and refers to col. 6 which discloses various impermeable materials used to compose the backsheet. The cited passage in col. 5 refers to the backsheet being vapor permeable, which is identical to that claimed. As noted in the rejection, the fact that Bewick provides additional layers between the two outermost layers provides the claimed spacing in which at least one of the layers may be considered as the condensation zone. The applicant argues the function of the specific layers, however, the functionality of the article (i.e. first and second amounts of mass flow water vapor) appear to be a direct result of the structure and would therefore be met by Bewick since Bewick provides all structural elements in the same configuration as claimed.

With respect to the "one particle", the examiner contends that the one particle is taught by the prior art at least with respect to the particles that construct the backsheet as set forth in the rejection of claim 11 and in col. 6.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele Kidwell/
Primary Examiner, Art Unit 3761